

A Special Meeting of the Common Council of the Town of Clarkdale was held on Tuesday, October 26, 2010, at 3:00 PM at Clark Memorial Clubhouse, Men's Lounge, 19 N. Ninth Street, Clarkdale, Arizona.

CALL TO ORDER - Meeting was called to order at 3:00 PM by Mayor Von Gausig.

Town Council:

Mayor Doug Von Gausig
Vice Mayor Richard Dehnert

Councilmember Patricia Williams
Councilmember Curtiss Bohall
Councilmember Bill Regner

Town Staff:

Town Manager Gayle Mabery
Community Development Director Sherry Bailey
Human Resources/Community Services Director Janet Perry
Acting Police Chief Troy Smith
Utilities Director Wayne Debrosky
Public Works Director Steve Burroughs
Town Clerk/Finance Director Kathy Bainbridge

PUBLIC COMMENT – The Town Council invites the public to provide comments at this time. Members of the Council may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. §38-431.01(G), action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism or scheduling the matter for further consideration and decision at a later date. Persons interested in making a comment on a specific agenda item are asked to complete a brief form and submit it to the Town Clerk during the meeting. Each speaker is asked to limit their comments to five minutes.

Mayor Von Gausig – Clark Mansion being taken down today.

CONSENT AGENDA - The consent agenda portion of the agenda is a means of expediting routine matters that must be acted on by the Council. All items are approved with one motion. Any items may be removed for discussion at the request of any Council Member.

- A. **Reports** - Approval of written Reports from Town Departments and Other Agencies
 - Building Permit Report – September, 2010
 - Capital Improvements Report – September, 2010
 - Magistrate Court Report – September, 2010
 - Police Department Report – September, 2010
 - Water and Wastewater Report – September, 2010
 - Clarkdale Fire District Report and Mutual Aid Responses Report – September, 2010
 - Cottonwood Area Transit (CAT) Operations Report – September, 2010
- B. **Resignation of Charlie Scully from the Design Review Board** – Acceptance of the letter of resignation from Charlie Scully from the Design Review Board.
- C. **Request To Extend The Hours For The Haunted House At The Old School House Located At 600 First North To Include Sunday, October 31, Halloween Until 9:00**

P.M. - Ron Roope of Haunted Tours of Jerome has requested that the council allow the Haunted House at the Old School House to be open on Halloween, October 31st to 9:00 p.m.

THIS ADDENDUM ADDS AN ITEM TO THE AGENDA FOR THE OCTOBER 26, 2010, SPECIAL COUNCIL MEETING:

CONSENT AGENDA

D. SPECIAL EVENT LIQUOR LICENSE - Approval of a recommendation to the State Department of Liquor Licenses and Control to approve a Special Event Liquor License for the Yavapai College Foundation's event entitled "French Flair in the Verde Countryside" to be held on Thursday, October 28, 2010 from 5:30 – 10:00 p.m. on the Yavapai College Campus, 601 Black Hills Drive, Clarkdale.

Councilmember Regner moved to accept the Consent Agenda items A-D as prepared by staff. Motion seconded by Councilmember Bohall. Motion approved unanimously.

NEW BUSINESS

WORKSESSION ON THE AMENDED 2011 CLARKDALE GENERAL PLAN – A worksession for Council review of the draft Amended 2011 General Plan.

At the October 12th meeting Council had an overview of the drafted General Plan. The General Plan Update Committee and the Planning Commission met after that meeting and made revisions according to those discussions.

Community Development Director Bailey informed the Council that upon her final review of the Arizona approval process, she found that a required 60 day review process for surrounding communities and agencies needed to be completed prior to Council approval and Call for Election. With that information, the General Plan will not be able to follow the timeline for the March election. A revised proposed timeline for a future election dates will be brought to Council at the next meeting.

May 17th election, would have to have the 60 day review and come to Council on January 11th meeting for the Call of Election.

August 30th election, would have to have the 60 day review and come to Council at the April 26th meeting.

November 8, 2011 election, would have to have the 60 day review and come to Council at the July 11th meeting.

Mayor Von Gausig thought that there was no sense to rush into approving the Plan and amending it at a later date to add an education chapter, and that we might as well take the time now and complete that chapter.

The Planning Commission and General Plan Update Committee met to discuss the changes requested by the Council on October 12th. Jorge Olguin, Planning Commission Chair, reported:

- They would like to add another chapter regarding education
- Change to active language instead of passive language
- The PARA Study will be part of the General Plan as an appendix
- Will include citations in final draft
- The value of habitat will be consistently treated between the open space chapter and the environmental chapter
- Would like to include the water rate structure as a method of conservation
- Chapter 10 will be more definitive in the policy statement to recommend that a version of Form Based Codes are adopted
- In Chapter 12, it will be clearer that the Sustainability Park is part of comprehensive developmental plan
- Corrections to maps.

Councilmember Regner wondered if the PARA Study would say what we want. Community Development Director Bailey stated that she just received a draft which probably needs additional verbiage regarding rail.

Town Manager Mabery said the PARA study will be done in December and since we have additional time, and we may take elements of the finished document and put in the transportation chapter instead of using the entire PARA Study as an appendix.

Mayor Von Gausig stated that he appreciates all the work the Focus Groups, General Plan Update Committee and the Planning Committee put into the plan.

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF CLARKDALE, YAVAPAI COUNTY, ARIZONA, DELETING CHAPTER 2, MAYOR AND COUNCIL, SECTION 2-4-4, QUORUM, OF THE CLARKDALE TOWN CODE IN ITS ENTIRETY, AND RECREATING CHAPTER 2, MAYOR AND COUNCIL, SECTION 2-4-4, QUORUM; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY – Discussion and consideration of Ordinance # 329 an Ordinance deleting and recreating Chapter 2, Section 2-4-4, Mayor and Council – Quorum, allowing for councilmembers appearing and voting telephonically or by other verbal electronic communication.

The proposed ordinance amendment recreating Chapter 2, Section 2-4-4, Mayor and Council – Quorum that will allow councilmembers to appear and vote telephonically or by other verbal electronic communication. If there is a problem reaching a quorum, participation by telephone is OK, but the public must be able to hear the person, the person must be able to hear everyone at the meeting, and participation telephonically or by other verbal electronic communication must be noted on the agenda.

Technically, in order to have language on the agenda that members may participate telephonically or by other verbal electronic communication, we should have an ordinance providing for it also. Once it has been approved and posted for 30 days, we can put the language on the agendas.

We are working on updating the entire section for boards and commissions and will add the same language in that section of the Code.

Councilmember Dehnert wondered if the Town was technologically prepared to adopt this. Town Manager Mabery stated that we were, but we would test the system to make sure that we would be able to hear all speakers.

Councilmember Bohall moved to approve Ordinance #329, an Ordinance of the Mayor and Council of the Town of Clarkdale, Yavapai County, Arizona, deleting Chapter 2, Mayor and Council, Section 2-4-4, Quorum, of the Clarkdale Town Code in its entirety, and recreating Chapter 2, Mayor and Council, Section 2-4-4, Quorum; providing for repeal of conflicting ordinances; and providing for severability. Motion seconded by Vice Mayor Dehnert. Motion approved unanimously.

TOWN MANAGER ANNUAL EVALUATION PROCESS - Discussion of the review process for the Town Manager Annual Evaluation.

Mayor Von Gausig has requested the Town Manager to begin the process of scheduling the Town Manager Annual Evaluation with the Town Council. The following forms that are to be used as part of the Town Manager's evaluation process are: Performance Evaluation Procedure, Manager's Self-Evaluation Form (blank), and Performance Evaluation Form (for use by Mayor and Council Members).

Although there has never been a set schedule for the Town Manager evaluations, it is ideal if Council can conduct an evaluation annually, and the Council has been doing so for the past 4-5 years. The last evaluation was conducted in December, 2009. Since it is typically useful to try to tie the goals set during Strategic Planning to the Manager's evaluation, for the past several evaluations, we have tried to schedule an evaluation either right before or right after our annual Strategic Planning Session. We anticipate a Strategic Planning Session with the Council in January, 2011.

Clarkdale's Evaluation Procedure suggests a preliminary meeting with the entire Council to review the evaluation procedures, evaluate the criteria, and set timetables for completion of the evaluation process.

The Town Manager's suggestion for a timeline is as follows:

October 26, 2010 - Preliminary Meeting with Council to review the evaluation procedures, evaluate the criteria and set timetables for completion of the process.

November 30, 2010 - Manager's Self-Evaluation due to Council

December 14, 2010 - Evaluation with Council in Executive Session

Written compilation to Council for adoption in January

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF CLARKDALE, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED "AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF CLARKDALE, YAVAPAI COUNTY, ARIZONA, AMENDING ARTICLE 10-1-5 "EXPLOSIVES", AND CREATING ARTICLE 10-4 "FIREWORKS REGULATIONS", OF THE CLARKDALE TOWN CODE; PROVIDING

FOR REPEAL OF CONFLICTING ORDINANCES, AND PROVIDING FOR SEVERABILITY” - Discussion and consideration of Resolution # 1355, a Resolution declaring the above named Ordinance which establishes fireworks regulations in the Town of Clarkdale a public record to be adopted by Ordinance #330.

On September 28, 2010, the Clarkdale Town Council held a worksession to discuss whether or not to enact regulations on the use of fireworks in light of HB2246, which was enacted during the Second Regular Session of the 49th Arizona Legislature 2010 and authorized the sale of certain kinds of consumer and display fireworks in the state. The legislation includes provisions allowing cities and towns flexibility to regulate the use of fireworks within their municipal boundaries. The bill is effective December 1, 2010.

As a result of the discussion at the Council’s 9/28/10 worksession, staff has modified the model ordinance that was prepared by the League of Arizona Cities and Towns and is presenting it for Council consideration. The fireworks provisions would be included as Article 10-4 of the Clarkdale Town Code, under the “Offenses” section of the Code. Provisions included in the ordinance include:

- An amendment to Section 10-1-5, which regulates explosives. The amendment deletes the reference to fireworks in this section of the code so that all fireworks references are contained in Article 10-4.
- Creates a new Article 10-4 – Fireworks Regulations
- Includes definitions from the Arizona Revised Statutes for *Consumer Firework, Display Firework, Fireworks, Novelty Items, Permissible Consumer Fireworks and Supervised Public Display*.
- Prohibits the use of fireworks within the Town of Clarkdale, but allows for use of novelty items (which are defined as “federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices, sparklers and certain toys as defined in A.R.S. 36-1601) and supervised public displays (with a permit from the Fire Marshall).
- Provides for the sale of fireworks in Clarkdale, but requires that every person engaged in a sale must prominently display signs at each cash register and in each area where fireworks are displayed for sale stating, 1) That the use of fireworks, except novelty items, including permissible consumer fireworks, is prohibited in the Town of Clarkdale; and 2) Consumer fireworks may not be sold to persons under the age of 16.
- Directs the Community Development Director to develop regulations concerning the size and color of the required signs and develop a model sign that will be available at the Town Clerk’s office and on the Town’s website.
- Makes a person who discharges fireworks and causes the need for an emergency response liable for the expenses incurred as a result of the response.
- Makes it a Class 2 Misdemeanor to discharge fireworks in Clarkdale (which may be punishable by a fine in an amount up to \$750, or imprisonment for a period up to four months).
- Makes it a Class 1 Misdemeanor to put on a public display of fireworks without the appropriate permits from the Fire Marshall (which may be punishable by a fine in an amount up to \$2,500, or imprisonment for a period up to six months).
- Makes a violation of the signage requirements a Class 2 (which may be punishable by a fine in an amount up to \$750, or imprisonment for a period up to four months).

The Council had not previously discussed appropriate penalties for violations of the fireworks regulations. Penalties can range from Misdemeanor Criminal penalties to Civil penalties.

For instance, the City of Tempe adopted Fireworks Regulations, and made any violation of the regulations on posting of signage a Civil Offense, punishable by a minimum fine of \$250, and any violations of the illegal use of fireworks is a Class 3 Misdemeanor with a minimum fine of \$250.

The City of Sedona made any violations of any provision of their fireworks regulations (either for illegal use of fireworks or not following the signage requirements) a Class 1 Misdemeanor (which may be punishable by a fine in an amount up to \$2,500, or imprisonment for a period up to six months).

If the Council would like to consider changing the penalties that are currently drafted in the Code, they can use the following as a guide:

- Class 1 Misdemeanor - may be punishable by a fine in an amount up to \$2,500, or imprisonment for a period up to six months (a minimum fine amount, in any amount less than the \$2,500 maximum fine, may be identified, which would set the lowest limit of fine that a judge could impose for violation)
- Class 2 Misdemeanor - may be punishable by a fine in an amount up to \$750, or imprisonment for a period up to four months (a minimum fine amount, in any amount less than the \$750 maximum fine, may be identified, which would set the lowest limit of fine that a judge could impose for violation)
- Class 3 Misdemeanor - may be punishable by a fine in an amount up to \$500, or imprisonment for a period up to 30 days (a minimum fine amount, in any amount less than the \$500 maximum fine, may be identified, which would set the lowest limit of fine that a judge could impose for violation)
- Civil Offense – may be punishable by a fine, but would never include the possibility of imprisonment (a minimum fine amount may be identified, which would set the lowest limit of fine that a judge could impose for violation)

Because the new State regulations involving the sale of fireworks go into effect on December 1, 2010, the Council needs to take action on an ordinance regulating fireworks before November 1, 2010 if they want Clarkdale's regulations to be in place before sales of fireworks begin in the state (this is because there is a 30-day period before an ordinance becomes effective).

To save the cost of publishing in the newspaper a lengthy ordinance, this change is being first made a public record by resolution and then is adopted by reference by an ordinance.

Sparklers still legal.

Penalty provisions currently drafted are in three places:

1. Commercial public display without permit – Class 1 Misdemeanor - may be punishable by a fine in an amount up to \$2,500, or imprisonment for a period up to six months (a minimum fine amount, in any amount less than the \$2,500 maximum fine, may be identified, which would set the lowest limit of fine that a judge could impose for violation)
2. Business violating posting notice regarding use of fireworks and age requirements – Class 2 Misdemeanor - may be punishable by a fine in an amount up to \$750, or imprisonment

for a period up to four months (a minimum fine amount, in any amount less than the \$750 maximum fine, may be identified, which would set the lowest limit of fine that a judge could impose for violation)

3. Violates use of fireworks in Town limits – Class 2 Misdemeanor - may be punishable by a fine in an amount up to \$750, or imprisonment for a period up to four months (a minimum fine amount, in any amount less than the \$750 maximum fine, may be identified, which would set the lowest limit of fine that a judge could impose for violation)

Could make civil violations - Civil Offense – may be punishable by a fine, but would never include the possibility of imprisonment (a minimum fine amount may be identified, which would set the lowest limit of fine that a judge could impose for violation)

Signage should state what is allowable on sign, not just what is not.

The Council discussed changes to the drafted penalties in Section 10-4-2 - The use, discharge or ignition of fireworks within the Town of Clarkdale and Section 10-4-4 - Posting of signs by persons engaged in the sale of fireworks.

Vice Mayor Dehnert moved to adopt Resolution #1355, a Resolution of the Mayor and Council of the Town of Clarkdale, Arizona, declaring as a public record that certain document filed with the Town Clerk and entitled “An Ordinance of the Mayor and Council of the Town of Clarkdale, Yavapai County, Arizona, Amending Article 10-1-5 “Explosives”, and Creating Article 10-4 “Fireworks Regulations”, of the Clarkdale Town Code; Providing for Repeal of Conflicting Ordinances, and Providing for Severability with the following changes: Section 10-4-2 (D) Failure to comply with subpart A of this section is a Civil Offense, punishable by a fine with a minimum amount of \$50.00 and maximum amount of \$250.00, plus applicable surcharges, with no possibility of imprisonment or probation. A second or subsequent violation under subpart A of this section is a Class 2 Misdemeanor offense and may be punishable by a fine in an amount up to \$750.00 plus applicable surcharges, imprisonment for a period up to four months, and probation for a period up to two years, and Section 10-4-4 (D) Failure to comply with subparts A and B of this section is a Class 1 Misdemeanor offense and may be punishable by a fine in an amount up to \$2,500.00 plus applicable surcharges, imprisonment for a period up to six months, and probation for a period up to three years. Motion seconded by Councilmember Bohall. Motion approved unanimously.

AN ORDINANCE ADOPTING THE PUBLIC RECORD “AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF CLARKDALE, YAVAPAI COUNTY, ARIZONA, AMENDING ARTICLE 10-1-5 “EXPLOSIVES”, AND CREATING ARTICLE 10-4 “FIREWORKS REGULATIONS”, OF THE CLARKDALE TOWN CODE; BY REFERENCE, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; DESCRIBING PENALTIES THERETO; AND PROVIDING FOR SEVERABILITY – Discussion and consideration of Ordinance #330, an Ordinance adopting the public record Resolution 1355, which amends Article 10-1-5 “Explosives” and creates Article 10-4 “Fireworks Regulations”.

To save the cost of publishing in the newspaper a lengthy ordinance, this change was first made a public record by Resolution #1355 (previous agenda item) with the complete language of the “Ordinance Of The Mayor And Council Of The Town Of Clarkdale, Yavapai County, Arizona,

Amending Article 10-1-5 "Explosives", And Creating Article 10-4 "Fireworks Regulations", Of The Clarkdale Town Code; Providing For Repeal Of Conflicting Ordinances, And Providing For Severability" as an attachment. Ordinance #330, adopts the public record Resolution 1355, which amends Article 10-1-5 "Explosives" and creates Article 10-4 "Fireworks Regulations".

Vice Mayor Dehnert moved to adopt Ordinance #330, an Ordinance Adopting the Public Record "An Ordinance Of The Mayor And Council Of The Town Of Clarkdale, Yavapai County, Arizona, Amending Article 10-1-5 "Explosives", And Creating Article 10-4 "Fireworks Regulations", Of The Clarkdale Town Code; Providing For Repeal Of Conflicting Ordinances, And Providing For Severability". Motion seconded by Councilmember Regner. Motion approved unanimously

FISCAL YEAR 2010-2011 BUDGET UPDATE – A worksession to discuss the first quarter of the 2010-2011 FY budget.

This budget update was designed to provide the Town Council with an overview of the current budget position, discuss current budget and revenue projections, and talk about key areas in the Town's short term economic outlook.

Finance Director Bainbridge presented the first quarter budget comparison to the Council.

Fund	Expenses	% Budget	Revenues	% Budget
Streets	\$ 75,957.20	20.78%	\$ 69,320.27	22.77%
Wastewater	\$ 64,145.63	18.47%	\$ 80,018.03	23.04%
Sanitation	\$ 42,032.12	16.38%	\$ 68,956.67	25.17%
Water	\$254,400.79	19.14%	\$366,145.81	27.55%
Cemetery	\$ 10,347.91	27.49%	\$ 8,530.00	22.66%
General	\$472,624.10	19.55%	\$499,556.22	20.66%

Local sales tax collections are at 35% of the budgeted revenues and although budgeting was reduced from last year, actual collections have increased. Construction tax collections are at 32% of budgeted revenues. Motor vehicle tax is 26% of budget, state sales tax is at 27% of budget urban revenue sharing is at 27% and HURF fund collections are at 26%.

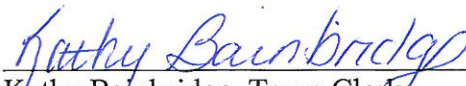
FUTURE AGENDA ITEMS - Listing of items to be placed on a future council agenda

ADJOURNMENT - Without any further business, the Council adjourned at 4:50 P.M.

APPROVED:


Doug Von Gausig, Mayor

ATTESTED/SUBMITTED:


Kathy Bainbridge, Town Clerk